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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,889	08/06/2003	Mark Schiebler	10122-001	1604

29391 7590 01/26/2005

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EXAMINER

SZUMNY, JONATHON A

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/635,889

Applicant(s)

SCHIEBLER, MARK

Examiner

Jon A Szumny

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-97 is/are pending in the application.
- 4a) Of the above claim(s) 1-97 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Art Unit: 3632

This is the second office action for application number 10/635,889, Multi-Use Linkage Device, filed on August 6, 2003.

### *Election/Restrictions*

Applicant's election with traverse of Species 27 (figure 31), corresponding to claims 1, 2, 12, 13, 18, 23, 24, 28-32, 34, 36, 42, 43 and 54, in the reply filed on November 1, 2004 is acknowledged. This is not found persuasive.

The traversal is on the ground(s) that the Examiner has failed to show that the examination of such distinct inventions would impose a burden on the PTO. It is first noted that the present application contains 44 species.

Further, the applicant contends the Examiner has failed to show either of the following: 1) a separate classification of the distinct inventions; 2) a separate field of search required for the distinct inventions; or 3) such inventions have achieved a separate status in the art, even though they are classified together. The above mentioned 1), 2) and 3) would be relevant if a restriction requirement was made as to *different inventions* as discussed in MPEP 808.02; however, the Examiner presented an election of *species* requirement, which is covered in MPEP 808.01(a).

The applicant continues by alleging that species 3 (figure 4) should be grouped with figures 1, 2A and 2B, that figures 9-13 should be grouped with figures 1, 2A and 2B and that figures 27, 28 and 29 should be grouped together. Finally, the applicant contends that these are only examples of species that should be grouped together.

It is noted that MPEP 808.01(a) essentially stipulates that the separate species must be patentable over each other. For instance, the species of figure 4 has "viper teeth", a feature not

Art Unit: 3632

found in figures 1, 2A and 2B. Moreover, each of figures 9-13 is referred to in the specification as "another preferred embodiment". If the species in these figures were unpatentable over each other or essentially the same, why would the applicant have referred to each as "another preferred embodiment"?

The requirement is still deemed proper and is therefore made FINAL.

Claims 3-11, 14-17, 19-22, 25-27, 33, 35, 37-41, 44-53 and 55-97 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on November 1, 2004.

However, in claim 1 (the only independent claim of the elected species 27 corresponding to figure 31), it is stipulated that the closure hub of the linkage device has an opening "to receive the second end of at least another linkage device *and said linkage device*." It is just not seen in figure 31, nor in the description of figure 31 in the specification, how the opening of the closure hub of the linkage device receives the second end of itself.

Further, the "tampering detection device connected to the linkage device" is just not seen in figure 31 nor found in the description of figure 31 in the specification. Therefore, claims 1, 2, 12, 13, 18, 23, 24, 28-32, 34, 36, 42, 43 and 54 are withdrawn from consideration as being drawn to a non-elected species.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon A Szumny whose telephone number is (703) 306-3403. The examiner can normally be reached on Monday-Friday 8-4.

Art Unit: 3632

The fax phone number for the organization where this application and proceeding are assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is

(703) 308-1113.

A handwritten signature in black ink, appearing to read 'Jon Szumny', with a long horizontal flourish extending to the right.

Jon Szumny  
Patent Examiner  
Technology Center 3600  
Art Unit 3632  
January 21, 2005